

EXHIBIT 27

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

6 ePLUS, INC. : Civil Action No.
7 vs. : 3:09CV620
8 LAWSON SOFTWARE, INC. : September 27, 2010

11 COMPLETE TRANSCRIPT OF THE FINAL PRETRIAL CONFERENCE
12 BEFORE THE HONORABLE ROBERT E. PAYNE
13 UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 you said in open court that you needed to hear the evidence.

2 THE COURT: I know, but why would I have said it is
3 moot? It's certainly not moot.

4 MR. ROBERTSON: I am sorry, sir. I'm informed now
5 that it was denied without prejudice.

6 THE COURT: Okay. Well, I understand that. Is that
7 the same issue that we're talking about?

8 MS. STOLL-DeBELL: Yes, Your Honor, and we were
9 talking about the SKUs. It came up in the context of that,
10 which products were accused because they were trying to include
11 some SKUs in their damages case relating to System Foundation
12 and ProcessFlow, and you asked Mr. Strapp to show you where in
13 Dr. Weaver's report does he accuse System Foundation or
14 ProcessFlow of infringement, and he pointed to that footnote,
15 and I've got a copy of the report here I can show you. But Dr.
16 Weaver mentions it in a single footnote and says the accused
17 products run on that platform, but the platform itself doesn't
18 make the fact of infringement more or less probable. It's the
19 same as saying it runs on a computer or you need a monitor to
20 see it. Yes, the products run on it, but it doesn't impact
21 infringement either way.

22 It wasn't in Dr. -- they didn't do an analysis of
23 those products, System Foundation or ProcessFlow, against the
24 claims. He says, look, it runs on this platform. The accused
25 product, S3, runs on this platform, and as far as Smart Office,

1 doesn't do anything with respect to, say, for perhaps
2 performing the steps of the method claims. The software
3 sitting there alone doesn't make a fully functional apparatus.
4 It might as well be a doorstop or a paperweight.

5 When you put it on a computer and it's operating,
6 that is an implementation of an infringing system, and when the
7 infringing system requires a foundational software for it to
8 perform, that's also a part of the infringing system.

9 These things come in many separate models, Your
10 Honor, and are put together, and when they are put together,
11 they form infringing systems. You will see various ways that
12 they can put together these modules to come up with an
13 implementation that either constitutes an infringing system or
14 then can perform the steps of --

15 THE COURT: Do you have a case that holds what you
16 are saying?

17 MR. ROBERTSON: I'm sure I can find one.

18 THE COURT: You better find one, because -- and you
19 better give it to me. You better brief that issue on the same
20 schedule you brief any other ones. You start off on
21 October 8th, or --

22 MS. STOLL-DeBELL: I would note also that this System
23 Foundation, ProcessFlow are used with things that don't relate
24 to the accused software at all. So it is just like a computer.
25 Like our human resources software runs on System Foundation.

1 It is just like the computer. It's something that is needed to
2 run the accused software, but that doesn't mean it infringes
3 it, and it doesn't mean that we even need to get into it at
4 trial.

5 If it was so important, Mr. Niemeyer would have
6 explained something more than one little sentence in there. If
7 it was so important, Dr. Weaver would have said more than you
8 need it to run the software --

9 THE COURT: I have to agree with you. I'm baffled by
10 this. You're going to have to brief and show me how -- A,
11 you're going to have to show me the case law that says you can
12 do what you're trying to do, and, B, you have to show me in
13 Weaver's and Niemeyer's report where they say that, because all
14 I see is one sentence.

15 MR. ROBERTSON: I will do that, Your Honor. Mr.
16 Niemeyer remembers just looking at source code, didn't talk
17 about infringement, didn't talk about claims. That's why his
18 report was fairly focused.

19 Let me just say one other thing, though. I'd agree
20 with Ms. Stoll-DeBell that when the Lawson Software Foundation
21 is being used with some other modules to make that system
22 operate, it's not an infringement, but when it's being used to
23 make the procurement system operate, that is an infringing
24 system.

25 So we don't accuse it standing alone, or we don't